

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK**

UNITED STATES OF AMERICA,)	
)	
Plaintiff,)	Case No. 11 Civ. 06969 (LAK)
)	
v.)	ECF Case
)	
THE BANK OF NEW YORK MELLON and)	
DAVID NICHOLS,)	
)	
Defendants.)	
)	

**NOTICE OF MOTION BY THE BANK OF NEW YORK MELLON
TO DISMISS THE SECOND AMENDED COMPLAINT**

PLEASE TAKE NOTICE that Defendant The Bank of New York Mellon, upon the accompanying Memorandum of Law in Support of Defendant The Bank of New York Mellon's Motion to Dismiss the Second Amended Complaint and the exhibits attached thereto, will move, by and through its undersigned attorneys, before the Honorable Lewis A. Kaplan, United States District Judge at the Daniel Patrick Moynihan United States Courthouse, 500 Pearl Street, Courtroom 12D, New York, New York 10007, on such date and time as the Court will determine, for an Order under Federal Rules of Civil Procedure 9(b) and 12(b)(6) dismissing all claims asserted in the Second Amended Complaint.

Dated: August 6, 2012

Respectfully submitted,

THE BANK OF NEW YORK MELLON

/s/ Reid M. Figel

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